

I-2-5-30. Medical or Vocational Expert Opinion — General

Last Update: 4/1/16 (Transmittal I-2-170)

A. Obtaining an Expert Opinion

Before scheduling a hearing, the administrative law judge (ALJ), or the hearing office (HO) staff under the ALJ's direction, must review all of the evidence to determine if additional evidence is needed to inquire fully into the matters at issue. An ALJ will follow the applicable instructions in Hearings, Appeals and Litigation Law (HALLEX) manual I-2-5-34 for medical experts (ME) and I-2-5-50 for vocational experts (VE) to determine whether he or she needs to obtain an expert opinion. If, after review, the ALJ determines he or she needs an ME or VE opinion, the ALJ will obtain the opinion either through testimony at a hearing or through written interrogatories. The ALJ must make every effort to obtain all essential documentary evidence early enough to allow the ME or VE sufficient time to consider the evidence before he or she responds to questions at a hearing or answers written interrogatories.

B. Testimony at the Hearing

Generally, it is preferred that an ALJ obtain an ME or VE opinion at the hearing, regardless of the expert's manner of appearance (i.e., in person, by video teleconferencing (VTC), or by telephone). Obtaining testimony at a hearing, rather than through interrogatories, is preferred because it allows the ALJ, claimant, and representative, if any, the opportunity to ask the ME or VE any questions material to the issues, including questions that arise for the first time during the hearing. The ALJ will determine the manner of the ME's or VE's appearance at the hearing and may direct the expert to appear by VTC or telephone under the circumstances described in HALLEX I-2-3-10 A.2.

NOTE: See HALLEX I-2-3-10 A.1. for information on when the ALJ may direct a claimant to appear by VTC or telephone.

The claimant may state objections to the expert appearing by VTC or telephone, or he or she may object to the expert based on perceived bias or lack of expertise. The ALJ will respond to any objections, either in writing or on the record at the hearing.

C. Interrogatories

An ALJ may use interrogatories if he or she decides that personal appearance and testimony by the expert are not essential and that interrogatories will provide a full inquiry into the matters at issue. However, the ALJ or HO staff must follow proffer procedures, as set forth in HALLEX I-2-5-29 or I-2-7-30. Proffer is necessary to allow the claimant and appointed representative, if any, the opportunity to review responses, submit comments or rebuttal evidence, object to questions, or to propose additional questions.

NOTE: For administrative efficiency purposes, an ALJ will usually proffer interrogatories to the claimant and appointed representative after receiving the expert's responses to the ALJ's initial interrogatories.

In some circumstances, the ALJ may be required to offer the claimant the opportunity to request a supplemental hearing. See HALLEX I-2-7-1.

D. Waiver of Right to a Hearing

As set forth in HALLEX I-2-1-82, a claimant may waive the right to appear at an oral hearing and have the case decided on the evidence of record. However, even when the ALJ decides that the claimant's personal appearance and testimony are not essential, the ALJ may still schedule a hearing or supplemental hearing to obtain testimony from a VE or ME. When doing so, the ALJ must provide notice to the claimant of any scheduled proceeding using the usual procedures in HALLEX I-2-3-15. For general information about supplemental hearings, see also HALLEX I-2-6-80.